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Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

LUCAS BRUNO III, CHRISTOPHER)	CIVIL NO. 03-00567 JMS BMK
GAHR, FRANK ROBERT PAULSON,)	
CHARLES TURNER, and TOM)	DEFENDANT'S MEMORANDUM IN
YOUNG,)	OPPOSITION TO PLAINTIFF'S
)	MOTION IN LIMINE TO EXCLUDE
Plaintiffs,)	ANY EVIDENCE RELATING TO GAHR
)	V. SAN BERNARDINO CITY UNIFIED
vs.)	SCHOOL DISTRICT, SAN
)	BERNARDINO SUPERIOR COURT CASE
MICHAEL CHERTOFF, Secretary,)	NO. SCVSS 33196; CERTIFICATE
DEPARTMENT OF HOMELAND)	OF SERVICE
SECURITY,)	
)	Trial Date: April 24, 2007
Defendant.)	Judge: The Honorable
_____)	J. Michael Seabright

DEFENDANT'S MEMORANDUM IN OPPOSITION TO PLAINTIFF'S
MOTION IN LIMINE TO EXCLUDE ANY EVIDENCE RELATING TO
GAHR V. SAN BERNARDINO CITY UNIFIED SCHOOL DISTRICT,
SAN BERNARDINO SUPERIOR COURT CASE NO. SCVSS 33196

ARGUMENT

Plaintiff moves in limine to bar defendant from making any
reference to a previous litigation in which he engaged, Gahr v.
San Bernardino City Unified School District, San Bernardino
Superior Court Case No. SCVSS 33196. Plaintiff apparently

believes that defendant will attempt to rehash the entire previous litigation in an attempt to show that Gahr was dishonest in the course of that litigation, over a decade ago.

Plaintiff misunderstands defendant's intent in referring to the previous litigation. There is strong evidence that Gahr has lied, not a decade ago in another case, but in the case now before the court; specifically, that he concealed evidence about his background and employment history. In his interrogatory answers and at his deposition, plaintiff failed to reveal that he had worked for Vestex Corporation and for the West San Gabriel Valley Consortium in the 1990s. At his deposition he was notably evasive and prone to claiming lack of memory about long periods of his employment.

The government's subsequent investigation revealed that Gahr worked for Vestex and the Consortium in the mid-nineties.¹ Gahr subsequently worked briefly for the San Bernardino County School District. He listed Vestex and the Consortium on his application, but was fired for refusing to fill out a more extensive background check. He brought suit against the School District for wrongful termination.

In the subsequent litigation, the School District accused

¹Defendant has obtained certified copies of the relevant documents from the San Bernardino courts for use, if necessary, in refreshing Gahr's recollection and impeaching any testimony inconsistent with his previous statements.

Gahr of lying about his job duties for Vestex and the Consortium and the reasons that his employment ended. Issues surrounding his employment were hotly litigated over a period of years. The case, filed in 1994, was settled before trial in 2001, so the accusations were not resolved.

Based on this history, it seems clear that Gahr omitted the employers from his work history in the current litigation in order to avoid this kind of scrutiny. Since Gahr's credibility is a key issue in this case,² the fact that he has apparently lied in this very litigation is crucial to the jury's full understanding of the case. Defendant does not intend to rehash the entire previous litigation; that litigation is relevant only to establishing Gahr's motive to lie in this case. The only facts from the previous litigation relevant to laying this foundation are (1) plaintiff was involved in litigation in the mid-nineties; (2) the litigation lasted for seven years, and Gahr actually worked for a number of years at the law firm handling the litigation; (2) Gahr's employment history was an important subject in that litigation; and (4) the other side accused Gahr of misrepresenting his employment history with Vestex and the

²To take just one example of the difference between Gahr's claims and that of other witnesses, screening manager Patrick Collins will testify that he counseled Gahr on at least two occasions about serious security breaches in the way Gahr closed the security screening checkpoint. Gahr apparently will deny that the breaches or the counselings ever occurred.

Consortium. All the other facts relevant to establishing Gahr's present dishonesty come from proceedings in this case.

Defendant agrees that neither side should refer to the other facts surrounding the litigation, including its subject matter or its resolution.

DATED: April 10, 2007, at Honolulu, Hawaii.

EDWARD H. KUBO, JR.
United States Attorney
District of Hawaii

/s/ Thomas A. Helper

By _____
THOMAS A. HELPER
Assistant U.S. Attorney

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CHARLES TURNER, and TOM)	CERTIFICATE OF SERVICE
YOUNG,)	
)	
Plaintiffs,)	
)	
vs.)	
)	
MICHAEL CHERTOFF, Secretary,)	
DEPARTMENT OF HOMELAND)	
SECURITY,)	
)	
Defendant.)	
_____)	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on the date and by the methods of service noted below, a true and correct copy of the foregoing was served on the following at their last known addresses:

Served Electronically through CM/ECF:

G. Todd Withy Withylawcourt@aol.com

Served by First Class Mail and Email:

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DATED: April 10, 2006, at Honolulu, Hawaii.

EDWARD H. KUBO, JR.
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/s/ Thomas A. Helper
By _____
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